

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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February 8, 2024

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Garland:

The Committee on Oversight and Accountability is conducting oversight of the Department of Justice’s (the Department or DOJ) administration and enforcement of the Foreign Agents Registration Act (FARA), 22 U.S.C. § 611 *et seq.* Specifically, the Committee seeks to understand the administration, enforcement, and recordkeeping practices associated with delays or decisions not to enforce FARA compliance with certain entities. As two prominent examples, statements by Administration officials and other material in the public record indicate the Department appears to have considered extra-legal factors in passing on or delaying FARA registration enforcement requirements for news media company Al Jazeera and social media company TikTok.

FARA’s purpose is “to protect the national defense, internal security, and foreign relations of the United States by requiring public disclosure by persons engaging in propaganda activities for or on behalf of foreign governments, foreign political parties, and other foreign principals.”¹ Disclosures under FARA enable “the Government and the people of the United States [to] be informed of the identity of such persons and [to] appraise their statements and actions in the light of their associations and activities.”²

FARA requires individuals to register with the Department if they engage in certain enumerated activities, even in some circumstances when such activities are conducted through an intermediary, “as an agent, representative, employee, or servant” or “in any other capacity” at the behest of a foreign principal, to influence American officials or any section of the public.³ In this time where social media, technology, and artificial intelligence are pervasive, there are innumerable opportunities for foreign principals to engage in nefarious registerable conduct without the opportunity for scrutiny that registration would provide the American public.

¹ Pub. L. No. 77-532, 56 Stat. 248, 248-249 (1942).

² *Id.*

³ 22 U.S.C. §§ 611(c), 611(o).

Al Jazeera

Congress has, on numerous occasions, alerted you of the risk in allowing Al Jazeera to skirt FARA obligations given its entities are funded by and act on behalf of the Qatari government, and they publish highly trafficked news in the United States.⁴ According to leaked documents, on September 14, 2020, DOJ issued a letter of determination directing AJ+, a U.S.-based affiliate of Al Jazeera, to register, stating that AJ+'s reporting "supports an inference" that its broadcasts are "designed to influence the opinions and perspectives of its U.S. audience as directed by the foreign principals and for their principal benefit."⁵ Al Jazeera has acknowledged cognizance of the Department's determination, responding publicly that the letter of determination was presented to the U.S. by the United Arab Emirates (UAE) as a "precondition[]" to announcing the Abraham Accords.⁶ The DOJ asked AJ+ to register within thirty calendar days, but to date, this has not occurred and DOJ has not exercised its prosecutorial discretion to seek injunctive relief, provided by 22 U.S.C. § 618(f).⁷

The Biden Administration appears to tacitly accept that Al Jazeera's information agenda is controlled by the Qatari government—a key criteria for requiring FARA registration.⁸ U.S. Secretary of State Antony Blinken has "reportedly asked the Qatari government to rein in Al Jazeera's coverage of Israel's war in Gaza—an apparent admission from the Biden administration that the outlet, despite its failure to register as one, is viewed as an agent of Qatar."⁹ Blinken's request reportedly coincides with the Biden Administration's concerns that "the channel is inflaming public opinion and heightening the risks of a wider conflict."¹⁰

⁴ Letter from Reps. Josh Gottheimer et. al to the Honorable Merrick Garland, Attorney Gen., Dep't of Justice (Nov. 8, 2023); Letter from Senator Grassley, Ranking Member, Comm. on Judiciary, et al. to the Honorable Merrick Garland, Attorney Gen., Dep't of Justice (July 1, 2021); Letter from Senator Grassley, Chairman, Senate Finance Comm., et al. to the Honorable William Barr, Attorney Gen., Dep't of Justice (June 18, 2019); Letter from Josh Gottheimer, Member of Congress, et. al to the Honorable Jeff Sessions, Attorney Gen., Dep't of Justice (March 6, 2018).

⁵ Empower Oversight, Letter from Jay I. Bratt, Chief, DOJ Counterintelligence and Export Control Section to Mr. Ignacio E Sanchez & Mr. William H. Minor, *Re: Obligation of AJ+ to Register under the Foreign Agents Registration Act* (Sep. 14, 2020), available at <https://empowr.us/wp-content/uploads/2023/01/2020-09-14-DOJ-Jay-Bratt-to-DLA-Piper-Al-Jazeera-FARA-Registration.pdf>.

⁶ Al Jazeera, *Al Jazeera condemns AJ+ FARA registration order in US* (Sep. 17, 2020); See also U.S. Dep't of State, *The Abraham Accords Declaration*, available at <https://www.state.gov/the-abraham-accords/> ("We encourage efforts to promote interfaith and intercultural dialogue to advance a culture of peace among the three Abrahamic religions and all humanity.")

⁷ *Supra* fn. 5.

⁸ Brent Scher, *Senators Say It's Time For Al Jazeera To Register As Foreign Agent Of Qatar*, Daily Wire (Oct. 31, 2023).

⁹ *Id.*

¹⁰ Robert Tait, *US asks Qatar to 'turn down the volume' of Al Jazeera news coverage*, The Guardian (Oct. 27, 2023).

TikTok

TikTok has not registered under FARA, despite calls to do so.¹¹ The social media company, which has been characterized as America’s “digital fentanyl,”¹² is owned by ByteDance, a privately owned Beijing-based company operating under the control of the Chinese Communist Party (CCP).¹³ It has been reported—and acknowledged by the company—that the Committee on Foreign Investment in the United States (CFIUS) has demanded, on national security grounds, that TikTok’s Chinese owners sell their shares in the company.¹⁴ In 2020, the U.S. military prohibited members from using TikTok on government-issued devices, “signaling increasing concern about possible security risks” related to TikTok’s Chinese ownership.¹⁵ The Biden Administration has since extended the ban to all federal employees, “amid mounting security concerns”¹⁶ and the company’s ““deep ties to China.””¹⁷ FBI Director Chris Wray has expressed concern that TikTok’s ability to control algorithm recommendations allows the CCP “to manipulate content, and if they want to, to use it for influence operations.”¹⁸

The growing public evidence that TikTok is used as a tool to advance a global pro-CCP agenda is troubling. Researchers are increasingly worried that TikTok could be “one of China’s most effective weapons in the global information war,” using Chinese-style censorship and transforming how users intake and understand real-world events.¹⁹ For example, the questionable scarcity of content related to the Hong Kong protests and other political criticisms of the CCP suggests that the CCP is using the app to influence Americans,²⁰ constituting “political activities” under FARA,²¹ and possibly doing so at the behest of another foreign principal, the CCP.

¹¹ See Letter from Reps. Josh Gottheimer et. al to the Honorable Merrick Garland, Attorney Gen., Dep’t of Justice (Nov. 8, 2023); Rick Lane, *Why TikTok Should File FARA Reports, not LDA’s*, Medium (Jan. 19, 2023); Sen. Marsha Blackburn, “It’s time TikTok lobbyists register as foreign agents.” X, (July 3, 2022); Sen. Tom Cotton, “...every employee of TikTok in our country should be forced to register as a foreign agent, as should every one of their lobbyists, PR flaks, and lawyers.” X, (March 23, 2023); Alec Dent, *TikTok’s D.C. Influence Campaign*, The Dispatch (Apr. 6, 2023).

¹² Rep. Mike Gallagher, *Why Do Young Americans Support Hamas? Look at TikTok.*, The Free Press (Nov. 1, 2023).

¹³ Joe McDonald et. al., *Why does the US see Chinese-owned TikTok as a security threat?*, Associated Press (March 24, 2023).

¹⁴ Echo Wang et. al., *TikTok says US threatens ban if owners don’t sell stakes*, Reuters (Mar. 16, 2023).

¹⁵ Ben Kesling & Georgia Wells, *U.S. Military Bans TikTok Over Ties to China*, The Wall Street Journal (Jan. 3, 2020).

¹⁶ David Ingram, *Biden signs TikTok ban for government devices, setting up a chaotic 2023 for the app*, NBC News (Dec. 30, 2022).

¹⁷ *Id.* (quoting Sen. Steve Daines).

¹⁸ Eric Tucker, *FBI director raises national security concerns about TikTok*, AP (Dec. 2, 2022); Ford School News, *FBI chief Wray addresses threats from China in Ford School forum*, University of Michigan (Dec. 6, 2022).

¹⁹ Drew Harwell & Tony Romm, *TikTok’s Beijing roots fuel censorship suspicion as it builds a huge U.S. audience*, The Washington Post (Sep. 15, 2019).

²⁰ *Supra* fn. 18.

²¹ 22 U.S.C. § 611(o).

TikTok is “extremely vulnerable to CCP demands,” since it is ultimately owned and operated by a Chinese company.²² The CCP is famed for coercing private companies to “carry out its political deeds, including censoring and surveilling Americans.”²³ In 2022, the Department’s criminal division opened an investigation into TikTok’s parent company, ByteDance, alleging that “its employees had inappropriately obtained the data of American TikTok users,” amid fears from the White House that “China might be using the popular video service to gather data about or spy on Americans, undermine democratic institutions and foster internet addictions in young people.”²⁴ Just last year, a former employee of TikTok parent company ByteDance alleged in a sworn statement that the CCP accessed the data of TikTok users to spy on pro-democracy protestors in Hong Kong, monitoring their locations and communications for political purposes.²⁵ These problematic ties to the CCP are all relevant under FARA.²⁶

Enforcement of FARA

While several foreign entities and media outlets disseminating information in the United States have registered under FARA,²⁷ Al Jazeera and TikTok remain unregistered, apparently undeterred by calls to do so.²⁸

Given Al Jazeera’s and TikTok’s public prominence in the U.S., mounting evidence of their use to advance foreign agendas, and the Biden Administration’s own national security concerns with the two companies, the Committee is puzzled that the Department appears to have either ceased or paused enforcement of FARA registration requirements for the companies without explanation. This lack of clarity raises unfortunate questions about the Department’s commitment to the objective enforcement of FARA, including aforementioned questions raised by Al Jazeera, that link the Department’s commitment to enforcing the law with diplomatic negotiations on unrelated matters.

²² Yaqui Wang, *The Problem with TikTok’s Claim of Independence from Beijing*, Human Rights Watch (March 24, 2023).

²³ *Id.* See also Jeanne Whalen, *Chinese censorship invades the U.S. via WeChat*, The Washington Post (Jan. 7, 2021); Katie Bo Lillis, *FBI investigations determined Chinese-made Huawei equipment could disrupt US nuclear arsenal communications*, CNN (July 25, 2022).

²⁴ Glenn Thrush & Sapna Maheshwari, *Justice Dept. Investigating TikTok’s Owner Over Possible Spying on Journalists*, The New York Times (Mar. 17, 2023).

²⁵ Brian Fung, *Analysis: There is now some public evidence that China viewed TikTok data*, CNN (Jun. 8, 2023).

²⁶ No exemptions under FARA, including the commercial exemption, 22 U.S.C. § 613(d), appear to apply.

²⁷ See e.g., Dep’t of Justice, FARA Registration No. 6633, CGTN America, <https://efile.fara.gov/docs/6633-Registration-Statement-20190802-2.pdf>; Registration No. 6694, RM Broadcasting, LLC, <https://efile.fara.gov/docs/6694-Registration-Statement-20190621-1.pdf>; Registration No. 6999, Sing Tao US, <https://efile.fara.gov/docs/6999-Registration-Statement-20210823-1.pdf>; Registration No. 6485, T & R Productions LLC, <https://efile.fara.gov/docs/6485-Registration-Statement-20171110-1.pdf>; Registration No. 7057, Vippi Media Inc., <https://efile.fara.gov/docs/7057-Registration-Statement-20211210-1.pdf>; Registration No. 6958, Xinhua News Agency North America, <https://efile.fara.gov/docs/6958-Registration-Statement-20210505-1.pdf>.

²⁸ *Supra*, fn. 4, fn. 5, fn. 11.

The Committee expects the Department to administer and enforce FARA with the singular goal of advancing the statute's explicit national security purpose.²⁹ The risks in failing to do so are high, especially at a time when many Americans, particularly young people, seek and trust social media content on tech platforms as primary sources of information, counsel, and comfort. The Committee therefore requests that the Department provide the following information no later than February 22, 2024:

1. All documents and communications relating to the decision-making process DOJ undergoes when determining whether to enforce FARA, including whether to sue or prosecute for failure to register under FARA;
2. Any communications between the DOJ and the Department of State regarding Al Jazeera's registration under FARA in the context of the Abraham Accords and negotiations with the United Arab Emirates;
3. All documents, communications, and guidelines relating to the FARA Unit's record keeping practices, and how and under what circumstances the FARA Unit determines and categorizes the status of administrative, civil, and criminal inquiries and investigations in its internal records – including, but not limited to the specific criteria used;
4. Documentation of the status – including whether any investigations are open, closed, or pending in any other manner – of FARA-related investigations or inquiries into TikTok and any Al Jazeera affiliated entities, including but not limited to Al Jazeera Media Network, AJ+, Al Jazeera International, and Al Jazeera English; and
5. Any letters of inquiry and letters of determination DOJ has sent to TikTok, Al Jazeera, and any affiliated entities.

The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. To arrange for delivery of responsive documents or ask any related follow-up questions, please contact the Committee on Oversight and Accountability Majority staff at (202) 225-5074.

Thank you for your prompt attention to this important matter.

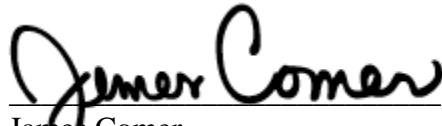
²⁹ *Supra* fn. 1.

The Honorable Merrick B. Garland

February 8, 2024

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Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, prominent "J" and "C".

James Comer

Chairman

Committee on Oversight and Accountability

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability